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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,521	08/26/2003	Ebon L. McCullough	03-1-531	5796
7590	05/03/2005		EXAMINER SANTIAGO, MARICELI	
William H. McNeill OSRAM SYLVANIA Inc. 100 Endicott Street Danvers, MA 01923			ART UNIT 2879	PAPER NUMBER

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/649,521

Applicant(s)

MCCULLOUGH ET AL.

Examiner

Mariceli Santiago

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

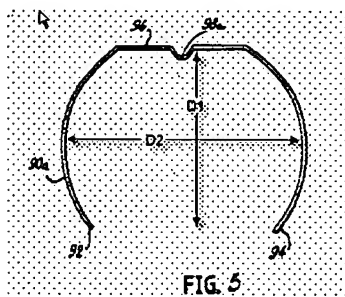
DETAILED ACTION***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulik, Jr. (US 5,521,458).

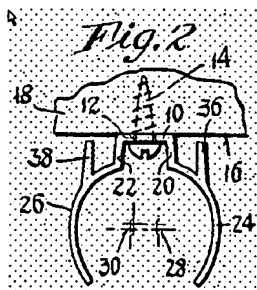


Regarding claim 1, Kulik discloses a frame clip (Fig. 5) for mounting a light source in a lamp comprising a substantially oval body having a longitudinal axis with an opening therein parallel to the longitudinal axis and having a given height and a first inside dimension D_1 and a second inside dimension D_2 ,

and wherein the second dimension D_2 is greater than D_1 .

Regarding claim 4, Kulik discloses a frame clip wherein the frame clip is constructed of stainless steel (Column 3, lines 61-64).

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by F.S. Beckerer (US 3,313,009).



Regarding claim 1, Beckerer discloses a frame clip comprising a substantially oval body having a longitudinal axis with an opening therein parallel to the longitudinal axis and having a given height and a first inside dimension D_1 and a second inside dimension D_2 , and wherein the second dimension D_2 is greater than D_1 . The

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recitation "for mounting a light source in a lamp" is considered an intended used recitation. It has been held that a recitation with respect to the manner in which a claimed element is intended to be employed does not differentiate the claimed element from a prior art structure satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ 2d 1647 (1987).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over F.S. Beckerer (US 3,313,009) in view of Tullos et al. (US 3,644,933).

Regarding claim 4, Beckerer discloses a clip constructed from metal, however, fails to disclose the metal being stainless steel. In the same field of endeavor, Tullos discloses a clip assembly made of stainless steel metal, which imparts a desired resilient/elastic property to the clip assembly. One of ordinary skills in the art would reasonable select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Thus, it would have been obvious to one having ordinary skills in the art at the time the invention was made to make the clip from a stainless steel metal material, in order to impart a desired resilient/elastic property to the clip structure, since the selection of known materials for a known purpose is considered within the skill of the art.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being obvious over Williamson (US 6,575,415) in view of F.S. Beckerer (US 3,313,009).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Regarding claims 1 and 5, Williamson discloses a frame clip for mounting a light source in a lamp comprising a substantially circular body having a longitudinal axis with an opening therein parallel to the longitudinal axis and having a given height. Williamson fails to disclose the frame clip comprising a substantially oval body having a first inside dimension D_1 and a second inside dimension D_2 , and wherein the second dimension D_2 is greater than D_1 . Beckerer discloses a clip structure comprising a substantially oval body having a longitudinal axis with an opening therein parallel to the longitudinal axis and having a given height and a first inside dimension D_1 and a second inside dimension D_2 , and wherein the second dimension D_2 is greater than D_1 . Beckerer's oval shape body provides a resilient construction with improved gripping capability that is easily adaptable to a wide variety of sizes of articles intended to be supported. Thus, it would have been obvious to one having ordinary skill in the art to incorporate the oval shape body clip disclosed by Beckerer in the frame clip of Williamson in order to

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provide a frame clip structure with improved gripping capability that is easily adaptable to a wide variety of sizes of articles intended to be supported.

Regarding claims 2, 3 and 6, Williamson discloses a frame clip wherein a pair of substantially oppositely located cutouts (16, 18) are provided on the body each providing an extending flap projection away from the clip, wherein the cutouts are positioned on the second dimension, and a first frame (28) member affixed to a first (16) of the flaps and a second frame member (30) affixed to a second (18) of the flaps.

Regarding claim 4, Williamson discloses a frame clip constructed of stainless steel.

Other Prior Art Cited

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Contact Information

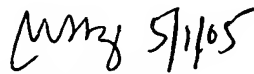
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariceli Santiago whose telephone number is (571) 272-2464. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel, can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about PAIR system,

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see <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mariceli Santiago
Primary Examiner
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